IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 25932 of 1999

Between:

M/s. Maganti Ramachander Rao, INDIAN OIL corporation dealers, Mancherial, Adilabad, Rep.by its Proprietor.

..... PETITIONER

AND

1 Indian Oil Corporation
G/9 , Ali Yavar Jung Marg Bandra (East) Mumbai.
2 The Chief Divisional Manager,
Indian Oil Corporation, 126, Sarojini Devi Road,
Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly a Writ in the nature of Writ of Mandamus declaring the action of the Second respondent in Suspending the sales and supplies of the petitioners firm vide reference SDO/R/1044, dated 7-12-99 as illegal, arbitrary and without authority of law and consequently direct the respondents to continue to supply the stocks to the petitioners' firm as agreed upon and pass such other order or orders as the Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner: MRS.NANDA R. RAO

Counsel for the Respondents: MR.P.V.SANJAY KUMAR

The Court made the following :

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ORAL ORDER

The petitioner has been carrying on the business of petroleum products under the name and style of "M/S.Maganti Ramachander Rao" as a dealer of the Indian Oil Corporation-1st respondent. The facts, which are not in dispute, are as follows:-

The retail out let of the petitioner was inspected by the Indian Oil Corporation Mobile lab on 15-10-1999. During the course of inspection, the inspecting team had carried on the furfural test and also conducted the density check. The petitioner claims that all the tests are found to be in order and it was also certified by the 1st respondent that the products are meeting the specifications. That apart, by letter dated 17-11-1999, the petitioner was informed by the 1st respondent that the Research Octane Number (RON) test results of the motor spirit (MS) samples collected from the retail out let of the petitioner received from the lab of H.P.C.L. Visakhapatnam shows that the sample drawn from the petitioner's retail out let meets the specification. However, subsequently the petitioner was served with a notice dated 26-11-1999 stating that the MS samples drawn on 15-10-1999 from the outlet of the petitioner, on analysis, failed to meet the specifications in respect of the Research Octane Number and, therefore, the petitioner was called upon to explain the said failure within seven days from the date of receipt of the notice. Immediately, on 29-11-1999 the petitioner addressed a letter to the 1st respondent stating that the sample drawn in their outlet by the mobile van on 15-10-1999 was found to be meeting the specifications as per the letter of the 1st respondent dated 17-11-1999 and since no other sample was collected from the retail out let of the petitioner on the said date or any other date, the 1st respondent was requested to clarify the allegations mentioned in the notice

dated 26-11-1999. Thereafter, the impugned order dated 07-12-1999 was issued by the 1st respondent reiterating the contents of the show cause notice dated 26-11-1999 and directing the petitioner to stop the sales and supplies of all the petroleum products for 30 days from 11-12-1999 to 10-01-2000. Aggrieved by the same, the present writ petition is filed seeking a declaration that the action of the 2nd respondent in suspending the sales and supplies of the petitioner's firm vide impugned order dated 07-12-1999 is arbitrary, illegal and without authority of law.

In the counter-affidavit filed on behalf of the respondents, though the facts leading to the inspection held on 15-10-1999 have been narrated in detail, the specific contentions raised by the petitioner that all the tests were found in orders and there was no adverse remark on that day or any time thereafter and particularly having informed the petitioner by letter dated 17-11-1999 that the sample drawn from the retail out of the petitioner meets the specifications, the respondents are not justified in issuing the impugned order, have not been answered at all. Though the learned counsel for the respondents, across the bar, submitted that the sample drawn from the petitioner's outlet was sent to two different labs, but, nothing has been placed before this Court to substantiate the said plea. There is absolutely no other material to establish the allegations in the impugned order. In the circumstances, I find force in the contention of the learned counsel for the petitioner that allegations in the impugned order dated 07-12-1999 are without any basis and therefore the action of the respondents in suspending the sales of the petitioner for a period of one month is arbitrary, illegal and unsustainable.

Accordingly, the writ petition is allowed and impugned order dated 07-10-1999 is set aside. No order as to costs.

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MS.G.ROHINI,J

25TH NOVEMBER 2004

*TSNR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty fifth day of November Two thousand and four.

To

1. Indian Oil Corporation
   G/9 , Ali Yavar Jung Marg Bandra (East) Mumbai.
2. The Chief Divisional Manager,
   Indian Oil Corporation, 126, Sarojini Devi Road,
   Secunderabad.

3. Two C.D.Copies